IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL REVISION PETITION NO. 04/2003
(Hari Prasad Vs. Smt. Pushp Devi & Anr.)

Date of Order : 13/07/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Shankar Rajpurohit for the petitioner.
Mr. Vineet Jain for the non-petitioners.

BY THE COURT:-

By the instant criminal revision petition under Section 397 read with Section 401 Cr.P.C., the petitioner has challenged the order dated 17.12.2002 passed by Judge, Family Court, Udaipur (for short 'the trial court' hereinafter) whereby the trial court on an application filed by the non-petitioners granted maintenance under Section 125 Cr.P.C. at the rate of Rs. 600/- per month in favour of non-petitioner No.1 and Rs. 400/- per month in favour of non-petitioner NO.2. Aggrieved by the order impugned, the petitioner has filed the instant revision petition.

I have heard learned counsel for the parties. Perused the order impugned.

It is contended by the learned counsel for the petitioner that the trial court erred in awarding maintenance without there being sufficient evidence supporting the petition filed by the non-petitioners. Learned counsel for the petitioner further submits that before the trial court, the non-petitioner herself appeared as witness and produced two witnesses i.e. her father and sister. They are interested witness and therefore, the case of the non-petitioners has not been supported by independent witnesses and lastly it was contended that the maintenance granted by the trial court is excessive.

Learned counsel appearing for the non-petitioners supported the order impugned and contended that there is ample evidence by which the non-petitioners succeeded in establishing the fact that the petitioner having sufficient means failed to maintain the non-petitioners and neglected them.

I have given my thoughtful consideration to the rival submissions made by the counsel for the parties.

A reply to the application seeking maintenance was

filed by the petitioner wherein he has admitted that the non-petitioner No.1 is his legally wedded wife, however, stated that non-petitioner had stayed with him only for three days. He has also admitted that the birth of non-petitioner No.2 was from the wedlock, however, denied that the petitioner or his family member ever demanded any dowry. He has also denied the allegation of cruelty as alleged by the non-petitioner No.1. On the contrary, he stated that non-petitioner No.1 is of quarrelsome nature and after having quarreled with the family members of the petitioner went to her parent's house. He further stated that the non-petitioner No.1 herself is capable of maintaining herself as she is a teacher in a private school and taking some tuitions also. As against this, the non-petitioner No.1 appeared herself and produced AW-2 Parvati and AW-3 Prahlabrai.

AW-2 Parvati has categorically stated that the non-petitioners are being maintained by her father and the petitioner has not been paying any maintenance to them.

AW-3 Prahladrai has stated that the non-petitioners are not in a position to maintain themselves his daughter is not doing anything and stated that to maintain the non-petitioner and her son, a sum of Rs. 3000/- per month is required.

As against this evidence, the petitioner only stated

that it was non-petitioner No.1 who informed him that she is taking tuitions.

The trial court did not rely on the evidence produced by the petitioner and as against this, the evidence produced by the non-petitioner was found to be reliable. The income of the petitioner was assessed to be Rs. 10,000/- per month by undertaking the work on contract and agriculture etc and awarded maintenance as aforesaid.

On close scrutiny of the material on record and the order impugned, in my view, the court below was justified in awarding the maintenance in favour of the non-petitioners. The amount of maintenance granted in favour of the non-petitioners cannot be said to be in any manner excessive. To maintain the adult person, a sum of Rs. 600/- per month is hardly any amount so is the case of the non-petitioner No.2 a minor daughter of petitioner.

In the circumstances therefore, I do not find any error, illegality or perversity in the order impugned warranting interference in the revisional jurisdiction.

The revision petition is accordingly dismissed.

(H.R.PANWAR),J.

rp